



C.R.P.No.5620 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.5620 of 2025
and
C.M.P.No.28147 of 2025

The Chitra Avenue Flat Owners Welfare Association
Represented by its Secretary, S.Giridharan
Chitra Avenue
No. 9, Choolaimedu High Road,
Chennai – 600 094

... Petitioner

vs.

V.G.Selvaraja

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the decree and order dated 01.11.2025 passed in I.A.No.1 of 2025 in O.S.No.3926 of 2025, by the II Assistant City Civil Court, Chennai.

For Petitioner : Mr.Y.Kaja Navas

For Respondent : Mr.S.Kamadevan



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ORDER

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The Civil Revision Petition is filed by the petitioner/plaintiff in a summary suit challenging the order passed by the II Assistant City Civil Court, Chennai in I.A.No.1 of 2025 in O.S.No.3926 of 2025, dated 01.11.2025 allowing the application filed by the respondent/defendant seeking leave to defend the suit.

2. The petitioner herein filed a suit for recovery of Rs.3,09,080/- together with interest at the rate of 24% per annum against the respondent/defendant. According to the petitioner, it is a Flat Owners Welfare Association registered under the Tamil Nadu Societies Registration Act, 1975 and the respondent is owner of Flat No.205 situated in the Apartment Complex called 'Chitra Avenue'. It was the specific case of the petitioner that though the respondent was the owner of the flat, he failed to pay maintenance charges inspite of several notices. Infact, as per the orders passed by this Court in Contempt Petition No.3040 of 2014 and C.R.P.No.2716 of 2019, the then Administrator of the Association had disconnected the water connection to respondent's flat on 26.02.2020. The said disconnection was challenged by the respondent by filing a suit in



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O.S.No.8590 of 2022 on the file of the VIII Assistant City Civil Court, Chennai. The said suit was disposed of with following directions:-

“In the result, this suit is partly decreed by granting mandatory injunction as against the defendant’s Association to restore the water supply to the Plaintiff’s flat immediately after receiving the arrears of maintenance charges from the plaintiff for the period from 2007 to 26.02.2020 and thereafter other maintenance charges excluding the charges for water supply.

As far as other reliefs are concerned, this suit is dismissed. Two months’ time for compliance.”

3. Though the above said direction was issued in the suit, the respondent failed to pay arrears of maintenance and therefore, a legal notice was issued to the respondent on 06.02.2025 calling upon him to pay a sum of Rs.2,98,230/- as per the judgment and decree passed in the above mentioned suit. Since, there was no response from the respondent, the petitioner has filed the present suit seeking recovery of the maintenance as on date of the plaint. It is not in dispute that the above said suit was filed under Order XXXVII of the Code of Civil Procedure and hence, summary procedure contemplated thereon is applicable to the said suit.



4. After receipt of suit summons, the respondent entered appearance and filed instant application in I.A.No.1 of 2025 seeking leave to defend the suit. It was his specific case that the present case was filed based on judgment and decree in O.S.No.8590 of 2022 and the said judgment was challenged by the respondent in A.S.No.136 of 2025 before the Appellate Court and hence, according to the respondent, the suit filed by the petitioner based on judgment and decree which had not attained finality was not maintainable. It was further stated that the present suit will not fall within the description of the suit mentioned under Order XXXVII of the Code of Civil Procedure and therefore, the petitioner was not entitled to file a suit as summary suit. It was further stated that the petitioner-Association did not file Annual Returns for several years periodically and hence, notice had been issued under Section 44 (3) of the Tamil Nadu Societies Registration Act, 1975 to the Petitioner-Association calling for explanation and formal orders for removal of the petitioner's name from the register was awaited.

5. The Trial Court after considering the contention raised by both the parties was pleased to grant leave to the respondent unconditionally to defend the suit. Aggrieved by the same, the petitioner has come before this Court.



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6. The learned counsel appearing for the petitioner would submit that the respondent has been in arrears of maintenance to the tune of more than 3 lakh rupees and therefore, the Trial Court was not justified in granting unconditional leave to defend the suit. It is also submitted that the arrears of maintenance payable by the respondent was adjudicated by the Court in O.S.No.8590 of 2022, after full fledged trial. Even though the said judgment and decree had been marked as exhibit before the Trial Court, the learned Judge failed to consider the same. The learned counsel further submitted that the judgment and decree passed in O.S.No.8590 of 2022 has not been stayed by the First Appellate Court and hence, the petitioner is entitled to maintain a suit.

7. The learned counsel appearing for the respondent would vehemently contend that the present suit has been filed only based on the judgment and decree passed in O.S.No.8590 of 2022, which had not attained finality and therefore, the suit filed by the petitioner is not at all maintainable, when first appeal against the above said judgment and decree is still pending. The learned counsel further submitted that the petitioner has become defunct association due to its failure to file periodical returns under



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the Societies Registration Act and therefore, the respondent has got triable issues.

8. Heard the learned counsel appearing for the petitioner and learned counsel appearing for the respondent and perused the materials available on record.

9. A perusal of the plaint would indicate that the present suit has been filed based on the judgment and decree passed in O.S.No.8590 of 2022. In Paragraph No.8 of the plaint, it was specifically pleaded by the petitioner/plaintiff that based on the above mentioned judgment, a legal notice was issued to the respondent on 06.02.2025 and he failed to pay arrears of maintenance as demanded in the legal notice. Therefore, it is very clear that the suit was filed mainly based on the finding given in the earlier suit in O.S.No.8590 of 2022 to the effect that the respondent was in arrears of maintenance from 2007 to 2020. It is not in dispute that the above said suit was decreed on 29.01.2025 and the present suit was filed on 09.07.2025, after issuance of legal notice as stated supra.



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10. It is brought to the notice of this Court that the respondent filed First Appeal in A.S.No.136 of 2025 on the file of the City Civil Court, Chennai challenging the judgment and decree passed in O.S.No.8590 of 2022. Therefore, the finding rendered in earlier suit with regard to the arrears of maintenance has not attained finality and in the event of allowing of appeal filed by the respondent, the present suit claim will be in jeopardy. In such circumstances, the Trial Court was justified in granting a leave to the respondent unconditionally to defend the suit.

11. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The II Assistant City Civil Court,
Chennai.



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S.SOUNTHAR, J.

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